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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/737,841	12/14/2000	Donald F. Gordon	SEDN/308	9495

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EXAMINER

JEANTY, ROMAIN

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 12/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/737,841

Applicant(s)

GORDON ET AL.

Examiner

Romain Jeanty

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-12,16 and 18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4-12,16 and 18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Detailed Action

1. Final Office action is in response to the communication received September 19, 2006.

Claims 1, 4-12, 16, and 18 are pending in the application.

Response to Arguments

2. Applicant's arguments with respect to claim 1, 4-12, 16 and 18 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 4-12, 16, and 18 are rejected under 35 U.S.C. 102(b) as being unpatentable over Herz et al "Herz" (U.S. Patent No. 5,758,257) in view of Alexander et al "Alexander" (U.S. Patent No. 6,177,931) and further in view of LaJoie et al "LaJoie" (U.S. Patent 5,850,218).

As per claims 1, 4-9, 11-12, 16, and 18, Herz discloses a system and method

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for scheduling broadcast of and access to video programs and other data using customer profiles. In so doing, Herz discloses propagating, via a forward application transport channel (FATC), a plurality of video streams representing respective pages of an interactive program guide (IPG), each IPG page depicting programming associated with a respective pair of channel groups and time slots (col. 10, lines 6-20 and col. 24 line 56 through col. 25 line 6), polling the plurality of terminals for trend data (col. 6, line 56 through col. 7 line 5; and col. 41, lines 42-56), receiving via a back channel, subscriber selections associated with at least one IPG page (col. 6 line 56 through col. 7 line 5 and col. 43, lines 3-12), determining trend data associated with accumulated subscriber selection, and adapting at least one IPG page in response to said determined trend data (col. 45. lines 34-55). Herz fails to explicitly disclose “wherein the selections associated with the at least one IPG page comprise a plurality of remote control key presses associated with navigation by a user about the at least one IPG page and a plurality of actions performed in response to the key presses”. However, Alexander in the same field of endeavor, teaches the concept of a user to select a plurality of remote control key presses associated with navigation by a user about the at least one IPG (EPG) page and a plurality of actions performed in response to the key presses (col. 3, line 21 through col. 4, line 61). Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the applicant’s invention to modify the disclosures of Herz to include the teachings of Alexander in order to improve a viewer/subscriber interaction capabilities with the EPG.

The combination of Herz and Alexander does not explicitly disclose a subscriber interactions with at least one IPG page ... and subscriber interactions. LaJoie in the same field of endeavor teaches the concept of a subscriber interactions with an IPG page (col. 29, line 59

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through col. 30 line 63). It would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to modify the disclosures of Herz and Alexander to incorporate a subscriber interactions with at least one IPG as taught by LaJoie in order to allow a user to easily operate the set-top terminal and navigate through the abundance of programs and services available in the cable television system.

As per claim 10, Herz further discloses wherein the subscriber selections include a selection for a particular filter icon from among a plurality of filter icons provided in a user interface presented at a set top terminal (col. 29, lines 31-51)

5. Claims 2-3, 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz et al "Herz" (US Patent No. 5,758,527) in view of Alexander et al "Alexander" (US Patent No. 6,177,931), in view of LaJoie and further in view of Hendricks et al "Hendricks" (US Patent No. 5,659,350).

As per claims 2-3, 21-24, the combination of Herz, Alexander, and LaJoie does not explicitly disclose the concept of stamping each event with a time of occurrence for the event. Hendricks in the same field of endeavor discloses the concept of stamping an event with a date and time (col. 29, lines 34-36). It would have been obvious to a person of ordinary skill in the art to modify the disclosures of Herz and Alexander and LaJoie to include stamping an event with a date and time as evidenced by Hendricks in order to allow for the organizing and packaging of television programs for transmission in a television delivery system.

Remarks

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6. Applicant asserted that Herz fails to teach applicant's claimed invention. Applicant supported his assertion by arguing that Herz fails to teach or suggest at least the limitation of the trend data of each terminal including preference indicative information, the preference indicative information including subscriber interactions with at least one IPG page and subscriber selections associated with at least one IPG page, wherein the subscriber interactions associated with the at least one IPG page comprising a plurality of remote control key presses associated with navigation by a subscriber about the at least one IPG page. In response, the examiner respectfully disagrees because Herz does teach determining trend data associated with accumulated subscriber selection, and adapting at least one IPG page in response to said determined trend data (col. 45. lines 34-55). Applicant further argues that Alexander fails to teach any deficiency from the teachings of Herz. Again, the examiner respectfully disagrees because Alexander does teach the concept of a user to select a plurality of remote control key presses associated with navigation by a user about the at least one IPG (EPG) page and a plurality of actions performed in response to the key presses. Note col. 3, line 21 through col. 4, line 61 of Alexander. Thus, combining the disclosures of Herz and Alexander would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention in order to improve a viewer/subscriber interaction capabilities with the EPG/IPG.

Applicant asserted that Herz and Alexander fail to teach applicant's claimed invention. Applicant supported his assertion by amending claim 1 to recite a subscriber interactions with at least one IPG (Interactive Program Guide) page. In response to applicant's amendment, the examiner respectfully disagrees because LaJoie U.S. Patent 5,850,218, teaches such added limitation. It would have been obvious to a person of ordinary skill in the art at the time of

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applicant's invention to modify the disclosures of Herz and Alexander to incorporate a subscriber interactions with at least one IPG as taught by LaJoie in order to allow a user to easily operate the set-top terminal and navigate through the abundance of programs and services available in the cable television system.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Romain Jeanty whose telephone number is (571) 272-6732. The examiner can normally be reached on Mon-Thurs 7:30 am. to 6:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq R. Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

November 27, 2006



Romain Jeanty
Primary Examiner
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